

# **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE APPLICATION OF</b>	<b>)</b>	<b>ORDER GRANTING AN</b>
<b>MIDAMERICAN ENERGY COMPANY FOR</b>	<b>)</b>	<b>AMENDMENT TO THE</b>
<b>DETERMINATIONS PURSUANT TO SECTION</b>	<b>)</b>	<b>PURCHASE POWER</b>
<b>32(k)(2)(A) OF THE PUBLIC UTILITY HOLDING</b>	<b>)</b>	<b>AGREEMENT AND</b>
<b>COMPANY ACT</b>	<b>)</b>	<b>RECITING COMMISSION</b>
	<b>)</b>	<b>DETERMINATIONS</b>
	<b>)</b>	<b>EL01-003</b>

On February 8, 2001, the South Dakota Public Utilities Commission (Commission) received an Application for Determinations Pursuant to Section 32(k)(2)(A) of the Public Utility Holding Company Act (PUHCA) from MidAmerican Energy Company (MidAmerican). MidAmerican seeks to amend the purchase power agreement in order to purchase energy from Cordova Energy Company LLC (CEC) during its start-up and testing phase of construction of the Cordova Energy Center (Cordova). In a previous docket, EL00-006, the Commission made various determinations pursuant to PUHCA relating to the original purchase power agreement between MidAmerican and CEC.

MidAmerican is a direct wholly-owned subsidiary of MHC Inc., an exempt public utility holding company under PUHCA, which in turn is an indirect wholly-owned subsidiary of MidAmerican Energy Holdings Company (MidAmerican Holdings). MidAmerican proposes to enter into an amended purchase power agreement with CEC which is a direct wholly-owned subsidiary of Quad Cities Energy Company which is a direct wholly-owned subsidiary of MidAmerican Holdings. CEC is an exempt wholesale generator and is an affiliate of MidAmerican.

MidAmerican in its filing provided pre-filed testimony and exhibits relative to the merits of its Application.

At its regularly scheduled meeting of March 6, 2001, the Commission considered this matter. MidAmerican appeared through its counsel, Suzan M. Stewart, and explained MidAmerican's Application. Commission Staff recommended that the Commission approve the Amendment to the Purchase Power Agreement (PPA), that the conditions placed on MidAmerican in Docket EL00-006 be continued in this matter, and that a cap be placed on the Cordova energy costs that are run through MidAmerican's South Dakota Energy Cost Adjustment (ECA). MidAmerican agreed to all of Commission Staff's recommendations.

Based upon the Application, the presentation of MidAmerican and the recommendations of Commission Staff, the Commission makes the following determinations:

- (i) The Commission has sufficient regulatory authority, resources and access to books and records of MidAmerican and CEC to exercise its duties under 15 U.S.C. Section 79z-5a(k)(20)(A) pursuant to SDCL Chapter 49-34A, generally, and specifically SDCL 49-34A-41, 49-34A-6. Also available to the Commission for purposes of access to records are those processes found at or implemented under SDCL 1-26-19.1, 1-26-19.2 and 15-6-26(b).
- (ii) The transaction will benefit customers because MidAmerican's ECA clause will be lower than it would otherwise be in the absence of purchases under the terms of the Amendment to the PPA.

(iii) The transaction does not violate state law. South Dakota law at SDCL 49-34A-19.2 acknowledges that affiliate transactions may occur and has provided a remedy to disallow the effects of these transactions in rate cases should they not be in the public interest.

(iv) The transaction would not provide CEC any unfair competitive advantage by virtue of its affiliation or association with MidAmerican. MidAmerican proposes to enter the transaction with CEC and pay for electric energy priced at a negotiated favorable rate.

(v) The transaction is in the public interest because the delivery of energy to MidAmerican during the start-up and testing phase will facilitate the successful completion of Cordova and the beginning of its commercial operation and because MidAmerican has negotiated a favorable rate for the purchase of energy produced during the start-up and testing phase. The public interest will be further served if the following conditions are imposed: (a) the approval of the transaction by the Commission does not guarantee recovery of MidAmerican's costs associated with the purchase power agreement in any rate proceeding; (b) approval of the purchase power agreement amendment is not a finding of prudence of the amounts paid by MidAmerican for the purchase of energy; and (c) MidAmerican shall submit cost information relative to the Amended PPA in its monthly ECA filing and with testimony submitted in its annual ECA reconciliation filing and such information shall be submitted substantially in the form of Schedule 1 pursuant to Docket EL00-006.

(vi) Under the Amendment to the Purchase Power Agreement, MidAmerican agrees the fuel clause treatment of Cordova energy purchases used to supply native load would be reflected in the South Dakota Energy Cost Adjustment in the same manner as any energy purchase. Individual Cordova energy purchases for off-system sales reflected in the South Dakota Energy Cost Adjustment during the Cordova start-up period would be reflected in the ECA at the lesser of actual energy purchase cost or the average cost of off-system purchases used in the same month's ECA calculation (excluding MidAmerican's purchase from Cooper Nuclear Station) had the Cordova energy purchase not taken place.

It is hereby ORDERED that the foregoing, including conditions imposed in them, shall constitute the determinations of the Commission in this docket.

Dated at Pierre, South Dakota, this 14th day of March, 2001.

<p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner